IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.17803-M of 2006
Date of Decision:- 28.04.2007

Balwinder Singh ....Petitioner(s)

through
Mr.Ashok Bhardwaj, Advocate

vs.

State of Punjab & ors. ....Respondent(s)

through
Mr.K.S.Pannu, AAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J.

The prayer in this petition under Section 482 Cr.P.C., is to quash the F.I.R.No.51 dated 20.3.2004 under Sections 420, 465, 467, 468, 471 IPC registered at Police Station City Rajpura, District Patiala, as well as all the proceedings arising therefrom.

The afore-mentioned relief has been sought by the petitioner primarily on the ground that he is totally innocent person against whom there is not an iota of material found by the Investigating Agency which may justify his prosecution. It is also contended that in a fact finding enquiry dated 4.6.2004 conducted by the Police Authorities (Annexure P-3), the petitioner was found innocent. The said report is stated to have been approved by the Senior Police Authorities including Deputy Inspector General of Police, Patiala Range.

It is also vehemently contended by learned counsel for the

petitioner that even though vide order dated 27.10.2005 passed by this Court in Crl.Misc.No.44484-M of 2005 (Annexure P-7), the ad-interim bail granted to the petitioner was confirmed subject to a rider only that if any challan is presented then the petitioner would be required to appear before the trial Court and furnish fresh bails bonds. However, the said order has been mis-construed and mis-interpreted by the Police Authorities as is evident from the copy of the challan dated 21.12.2005 wherein it is mentioned as if this Court had directed that the challan be presented against the petitioner.

On the other hand, learned State counsel, on the basis of averments made in the reply, contends that there is sufficient material to proceed against the petitioner.

There is, however, no denial to the fact that after presentation of challan, the learned Judicial Magistrate has yet not taken up the case for framing of charges.

In this view of the matter, this petition is disposed of with the following directions:-

(i) the above-noticed contentions made on behalf of the petitioner as well as other contentions, if any, shall be taken into consideration by the learned Judicial Magistrate at the time of considering the issue regarding framing of charges;

(ii) needless to say that the learned Judicial Magistrate will judiciously scrutinize the entire material to find out as to whether or not there is any evidence/material to form

a *prima facie* opinion against the petitioners and then to proceed against him;

(iii) if there is no such material, the legal consequences shall obviously follow.

April 28, 2007 **(SURYA KANT)**
poonam **JUDGE**